

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL TOLIVER,

Plaintiff,

v.

ORDER  
12-CV-00227A(F)

JOHN C. COLVIN, Deputy Superintendent for  
Security, and  
SUPERINTENDENT of FIVE POINTS ORDER  
CORR. FACILITY,  
CORRECTION OFFICER BROWN, Five Points,  
R. SHIELOS, Correction Sergeant Five Points,  
JOHN DOE, Correction Sergeant Five Points,  
WALAWENDER, Correction Sergeant Five Points,  
BRIAN FISCHER, Commissioner of New York State  
Dep't of Corrections and Community Supervision, and  
DIRECTOR OF MOVEMENT AND CONTROL/  
INMATE HOUSING, Albany,

Defendants.

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The above-referenced case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1)(B). On March 27, 2014, Magistrate Judge Foschio filed a Report and Recommendation, recommending that the First TRO Motion (Doc. No. 11) should be denied, that the Second TRO Motion (Doc. No. 12) should be granted, that the Injunction Motion (Doc. No. 17) should be denied, that the Motion for sanctions (Doc. No. 14) should be denied, that the Motion to Amend (Doc. No. 22) should be granted, and the Motion to Compel (Doc. No. 23) should be dismissed as moot in part and denied in part.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no

objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, the First TRO Motion (Doc. No. 11) is hereby denied, the Second TRO Motion (Doc. No. 12) is granted, the Injunction Motion (Doc. No. 17) is denied, the Motion for sanctions (Doc. No 14) is denied, the Motion to Amend (Doc. No. 22) is granted, and the Motion to Compel (Doc. No. 23) is dismissed as moot in part and denied in part.

Plaintiff is directed to forward the Second Amended Complaint to the Clerk of the Court, who is directed to file the Second Amended Complaint, and to cause the United States Marshal to serve copies of the Summons and Second Amended Complaint upon the named defendants. The matter is referred back to Magistrate Judge Foschio for further proceedings.

IT IS SO ORDERED.

Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: April 24, 2014